



6325-53

OFFICE OF PERSONNEL MANAGEMENT

Submission for Renewal: Information Collection; Questionnaire for National Security Positions, Standard Form 86 (SF 86)

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: Federal Investigative Services (FIS), U. S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an information collection request (ICR), Office of Management and Budget (OMB) Control No. 3206-0005, for Questionnaire for National Security Positions, Standard Form 86 (SF 86). As required by the Paperwork Reduction Act of 1995, (Pub. L. 104-13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104-106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of OPM, including whether the information will have practical utility;
2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information

technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESS: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Room 10235, Washington, DC 20503, Attention: Jasmeet K. Seehra, OMB Desk Officer or sent via email to oir_submission@omb.eop.gov or faxed to (202) 395-6974; and Federal Investigative Services, U. S. Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, Attention: Donna McLeod or sent by email to FISFormsComments@opm.gov.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Federal Investigative Services, U. S. Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, Attention: Donna McLeod or sent by email to FISFormsComments@opm.gov.

SUPPLEMENTARY INFORMATION: This notice announces that OPM submitted to OMB a request for review and clearance of the revised information collection of information, Questionnaire for National Security Positions, SF 86, which is housed in a system named e-QIP (Electronic Questionnaires for Investigative Processing) and is an information collection completed by applicants for, or incumbents of, Federal Government civilian or military positions, or positions in private entities performing work for the Federal Government under contract. The collection is used as the basis of information by the Federal Government in conducting background investigations,

reinvestigations, and continuous evaluations, as appropriate, of persons under consideration for or retention in national security sensitive positions as defined in Executive Order 10450 and 5 CFR part 732, for positions requiring eligibility for access to classified information under Executive Order 12968, and by agencies in determining whether a person performing work for or on behalf of the Federal Government under a contract should be deemed eligible for logical or physical access when the nature of the work is sensitive and could bring about a material adverse effect on national security.

The SF 86 is completed by civilian employees of the Federal Government, military personnel, and non-Federal employees, including Federal contractors and individuals otherwise not directly employed by the Federal Government but who perform work for or on behalf of the Federal Government. For applicants for civilian Federal employment, the SF 86 is to be used only after a conditional offer of employment has been made.

OPM seeks approval for the use of a common form to be used by all Federal agencies.

It is estimated that 263,566 non-Federal individuals will complete the SF 86 annually for investigations conducted by OPM. The SF 86 takes approximately 150 minutes to complete. The estimated annual burden for this form, when used in OPM investigations, is 658,915 hours. The web-based system application that houses the SF 86 is e-QIP (Electronic Questionnaires for Investigations Processing) is a. This electronic data collection tool provides immediate data validation to ensure accuracy of the respondent's personal information. The e-Government initiative mandates that agencies utilize e-QIP for all investigations and reinvestigations. A variable in assessing burden hours is the nature of the electronic application. The electronic application includes branching

questions and instructions which provide for a tailored collection from the respondent based on varying factors in the respondent's personal history. The burden on the respondent is reduced when the respondent's personal history is not relevant to a particular question, since the question branches, or expands for additional details, only for those persons who have pertinent information to provide regarding that line of questioning. For that reason, the burden on the respondent will vary depending on whether the information collection relates to the respondent's personal history. Additionally, once entered, a respondent's complete and certified investigative data remains secured in the e-QIP system until the next time the respondent is sponsored by an agency to complete a new investigative form. Upon initiation, the respondent's previously entered data (except "yes/no" questions) will populate a new investigative request, and the respondent will be allowed to update information and certify that data. In this instance, time to complete the form is reduced significantly.

Once OMB approves the use of this common form, all Federal agencies using the form not in connection with an OPM investigation may request the use of this common form without additional 60- or 30-day notice and comment requirements. At that point, each such agency will account for its number of respondents and the burden associated with the agency's use.

The 60-day notice of the proposed information collection was published in the Federal Register on March 12, 2013 (Federal Register Notices / Volume 78, Number 48, page 15755-15756), as required by 5 CFR Part 1320, affording the public an opportunity to

comment on the form. Comments were received from the Department of Energy-Idaho National Laboratory (DOE-INL), the Department of Veterans Affairs (VA), the United States Air Force (USAF), Health and Human Services (HHS-CMS), Department of Homeland Security-Immigration and Customs Enforcement (DHS-ICE), the Office of the Secretary of Defense (OSD-CPMS), Federal Aviation Administration (FAA), and commenters from the public and OPM. Five advocacy groups, the Bazelon Center for Mental Health Law, Mental Health America, Consortium of Citizens with Disabilities (CCD), Family Equality Council, and Department of Justice (DOJ) Pride, submitted comments.

Family Equality Council commented that OPM should add “legally recognized civil union/domestic partner” throughout the form where the word “spouse” is used. OPM accepted this recommendation and will include consistent language throughout the form to more accurately collect information regarding legally recognized relationships.

A commenter from the public recommended updating regulations cited under the “Authority to Request this Information” section and amend to show that EO 9397 was amended by EO 13748. This recommendation was accepted.

A commenter from the USAF recommended administrative edits explaining the use of “IO” for initial only, and “NMN” for no middle name. This recommendation was not accepted because current instructions in the electronic application provide explanations for each acronym.

Commenters from USAF also provided recommendations to remove “not applicable” for Social Security number in section 4 (SSN) and to remove the requirement to list three possible contact numbers as directed in section 7 (Your Contact Information).

The recommendation for removal of the “not applicable” option for the Social Security Number was not accepted. Not all respondents completing the questionnaire possess Social Security numbers, and therefore inclusion of the “not applicable” option is appropriate. The recommendation to remove the requirement to list three possible contact numbers was accepted, in part. Having access to multiple telephone numbers improves the opportunity for investigators to contact applicants as necessary throughout the investigation process. Revised guidance will be provided in section 7 to clarify that only one telephone number is required, but the other two numbers will facilitate completion of the background investigation.

Recommendations from the public and an OPM commenter included changes to section 9 (Citizenship), section 17 (Marital Status), and section 18 (Relatives) regarding the collection of information in instances of derivative U.S citizenship, and changes to the branching questions to display supporting documentation options to match claimed citizenship status. The recommendations were accepted in order to improve the accuracy of responses in these areas.

Comments were received from HHS-CMS and USAF regarding information collected in section 11 (Residence). The HHS-CMS commenter recommended adding an option to include “other periods of activity” instead of entering addresses multiple times. The commenter from USAF recommended adding instructions to this section for applicants not to list the same person more than one time as a reference. These recommendations were not accepted. Branching logic in e-QIP assists in the reporting of multiple periods of activity at the same location. The recommendation to limit references identified in this section may cause additional burden on applicants in the

event that they may have limited acquaintances/references to provide who can verify the period of residence.

Commenters from OPM submitted recommendations to collect additional information in two sections of the form to assist investigators in contacting required references. One recommendation is to collect landlord information for rental property reported in section 11 (Residence). The other recommendation is to collect the telephone number of former spouse(s) reported in section 17 (Marital Status). These comments were accepted. In addition, OPM intends to provide “I don’t know” as an option for these questions.

Commenters from USAF and OPM submitted recommendations to change the instructions provided in section 12 (Education). Recommendations included modifying the requirement to list all schools to include high school, clarifying instructions to list multiple degrees/diplomas, and rewording instructions to have the applicant provide “name of person who can verify/validate your attendance while at the school.” These recommendations were not accepted. The need to provide all educational activity is not supported by investigative standards associated with the use of the form and would result in applicants providing more information than necessary. Branching questions in e-QIP provide guidance for applicants to list multiple degrees/diplomas as appropriate. In regard to the need to provide additional guidance for listing educational references, instructions in the current form are sufficient as they indicate that applicants should “list a person who knew you at the school (instructor, student, etc.).”

A commenter from USAF recommended the elimination of the block in section

15 (Military History) for Service Number or the inclusion of more instructions regarding what information is to be reported in that block. OPM did not accept this recommendation at this time. Additional research is needed to determine the usefulness of information found in this field.

Recommendations were received from USAF and OPM commenters to provide additional instructions for section 16 (People Who Know You Well). The recommendations were to add verbiage instructing applicants not to list references already used as a reference elsewhere, and to provide instructions that all references should be people with whom Subject has had social contact in the last 7 years. These recommendations were not accepted as current guidance already addresses both recommendations.

Commenters from USAF submitted recommendations regarding section 18 (Relatives). Recommendations included requests to limit the collection of information pertaining to deceased family members who were foreign nationals, to add step in-laws as relatives, and to provide clarifying guidance that children are to be listed no matter their age and regardless of whether they are living at home. These recommendations were not accepted. Current branching logic with the electronic form collects only limited information pertaining to deceased relatives. The relative list as shown in section 18 provides support for investigative coverage requirements. The list may not identify all relatives that an applicant would like to list on the form. For this reason applicants are provided an additional comment field to list other relatives beyond the standard requirement.

Family Equality Council commented that asking applicants to list their mothers'

maiden name is duplicative and unnecessary and recommends removal of the “mothers’ maiden name” field in section 18 (Relatives). This comment was not accepted because the mother’s maiden name is needed to conduct certain checks associated with the subject of the investigation. In addition, the reporting is not duplicative because there is an option to indicate that the name is the same as previously listed in this section.

A commenter from USAF questioned why foreign contacts related to official U.S Government business are not required to be reported, as shown in section 20B (Foreign Business, Professional Activities, and Foreign Government Contacts). This comment was not accepted because the requirement to collect contacts in relation to U.S Government business may create duplication of reporting requirements by applicants in connection to work-related Government travel. In addition, information regarding U.S Government travel can be validated through other portions of the investigative process.

Several comments were received regarding proposed changes to section 21 (Psychological and Emotional Health). Bazelon Center for Mental Health Law, Mental Health America, and Consortium of Citizens with Disabilities (CCD) recommend that OPM eliminate language suggesting that mental health treatment is relevant to a person’s eligibility for a security clearance, eliminate inquiry about failure to follow treatment advice related to a mental health condition, and modify the inquiry about mental health conditions to inquire instead about concerning behaviors. These comments were not accepted because the text at issue is needed under the adjudicative guidelines for eligibility for access to classified information prescribed under E.O. 12968. The same commenters also recommended that OPM not include any language in question 21 suggesting that mental health treatment could be evidence of impaired judgment,

reliability, or trustworthiness. The current proposal is already consistent with the thrust of this comment, however. The revised question already states that seeking mental health counseling will not prevent the respondent from obtaining or retaining a national security position, and that seeking wellness and recovery may favorably impact eligibility.

A commenter from OSD-CPMS asked for a description of the specific changes expected for this question. The proposed revision to section 21 will inquire as to whether the respondent has, in the last 7 years, had a mental health condition that adversely affected his or her judgment, reliability, or trustworthiness; whether the respondent has been hospitalized for any reason related to a mental health condition; whether, in the last 7 years, the respondent has chosen not to follow a prescribed course of mental health treatment; and whether a court or administrative agency has ever declared the respondent mentally incompetent. Branching questions collect information about treatment arising from circumstances that require affirmative responses, as appropriate.

Regarding section 22 (Police Record), a commenter from FAA recommended changing language found in the “have you ever” questions to specifically require the applicant to include all arrests. The commenter claimed that the phrasing of certain questions involving section 22 leaves room for interpretation. The comment was not accepted because the change suggested is overly broad and would require the applicant to provide information outside of the investigative requirements.

A commenter from DHS recommended that the clarifying language proposed for section 23 (Illegal Use of Drugs) is best served in the general instructions for the form. This comment was not accepted as the proposed clarifying instruction at the section is sufficient to inform applicants of the requirement to list illegal drug use consistent with

Federal laws.

Comments were received from DOE-INL, HHS-CMS, OPM, and the public related to the functionality of the e-QIP application. The recommendations were not accepted because the comments do not pertain to content of the questionnaire but focus on the application. Recommendations included the need to provide additional support for the “agency reviewer” role in e-QIP, the rejection process, receipt of error messages, the ability to print a compact version of the questionnaire, support for digitally signing signature release forms, the ability to save partial data, and expanding characters used in certain fields. The recommendations were referred to the appropriate OPM personnel who have responsibility for the functionality of the e-QIP application.

A commenter with the USAF questioned the requirement for the respondent to provide information regarding a spouse or cohabitant without that person’s written consent. OPM did not accept this comment. Information collected for the spouse/cohabitant is necessary to fulfill requirements for the level of background investigation requested on the respondent, which may include a spouse/cohabitant national agency check. Because the spouse/cohabitant is neither the subject of the investigation nor the subject of the resulting report of investigation, his or her written consent is not required by the Privacy Act or by 5 U.S.C. 9101.

A commenter with USAF requested publication of a policy that strictly prohibits the use of the SF 86 applications and information for any purposes outside of the official security clearance process. In response, OPM notes that written guidance is provided under the following sections of the instructional portion of the form: Purpose of the Form, Disclosure Information, and Privacy Act Routine Uses. The collection,

maintenance, and disclosure of background investigative information are governed by the Privacy Act. Disclosure is also controlled under 5 CFR part 736 and E.O. 10450.

U.S. Office of Personnel Management.

Elaine Kaplan,
Acting Director.

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